LINE OF DUTY DETERMINATIONS

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Line of Duty Determinations

- WHO is eligible for such a determination?
- WHAT is it and WHAT are the possible findings?
- WHERE is the guidance?
- WHEN is an LOD required?
- WHY is an LOD necessary?
- HOW are findings characterized

WHO is eligible

- Any member of the ANG who incurs or aggravates an illness, injury or disease while
  - On active duty
  - Performing active duty for training for any period of time
  - On inactive duty for training
  - While traveling directly to or from inactive duty for training

WHAT is a “LOD” determination?

Federal laws require a determination whether a certain illness, injury, or disease is suffered by ANG members while in a duty status and whether such illness, injury, or disease is the result of a member’s own

CAVEAT

- The law *presumes* that an illness, injury, or disease is incurred in the line of duty UNLESS it is shown by a preponderance of the evidence that:
  - It was proximately caused by the member's own misconduct
  - It was incurred while the member was AWOL
  - The member was not in a duty or direct travel status when it was incurred.

WHAT are the possible findings?

- LOD Not Required-Not in Duty Status
- In Line of Duty
- In Line of Duty- EPTS- No Aggravation
- In Line of Duty- EPTS- Aggravation
- Not in Line of Duty, Due to own Misconduct
- Not in Line of Duty, Not Due to Own Misconduct

WHERE is LOD guidance?

- ANGI 36-2910
- AFI 36-2910

WHEN is a LOD required?

- When a member, whether hospitalized or not, incurs an illness, disease, or injury, that results in:
  - Inability of member to perform military duties beyond the period of scheduled tour of duty
  - Likelihood of permanent disability
  - Likelihood of claim against the US
  - Medical/Dental fees for which the US may be liable

WHEN ? (cont.)

- Member is being processed in the Air Force Disability Evaluation System
- Incapacitation of member that prevents the return to civilian occupation
- Death, when the member dies on active duty while serving under conditions that make them eligible to receive BAQ with either a VHA or an OHA, where there are surviving dependents
- Medical treatment for Reserve/Guard members regardless of the ability to perform military duties

WHY is a LOD necessary?

- To determine eligibility for:
  - Medical/dental care & possible incapacitation pay /allowances
  - Payment of civilian medical/dental expenses
  - Lost time
  - Disability compensation and hospitalization benefits by the VA
  - Job hiring preference by OPM
  - Physical disability retirement/separation

HOW are the LOD determinations characterized?

- Administrative: made by a medical authority and annotated in member's health record when the answer is obvious (no incapacitation, or clearly in duty status and clearly no misconduct)

HOW ? (cont.)

- Informal-Administrative: Partial completion of NGB Form 348. Used for minor injury, minor medical costs (i.e. ER), and no question about duty status or misconduct

HOW ? (cont.)

- Informal-Complete: Completion of NGB Form 348, investigation by member's commander, and review and/or certification by higher headquarters. Used when incapacitation will exceed 60 days, any case being presented to the PEB, and/or when civilian medical expenses exceed $1000.

HOW? (cont)

Formal Determination: Where there is suspicion of misconduct, AWOL, or doubt whether member was in a duty or direct travel status. Record on DD Form 261 and process in accordance with AFI 36-2910.

COMMON PITFALLS

- FAILURE TO PROPERLY INVESTIGATE
- FAILURE TO PROPERLY DOCUMENT

- SUGGESTION: BRIEF YOUR MEMBERS ON LOD SO THEY KNOW THE DO'S AND DON'T'S

QUESTIONS/COMMENTS / CONFUSION?